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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA
and CALIFORNIA DEPARTMENT
OF TOXIC SUBSTANCES
CONTROL,

Plaintiffs,

v.

LEACH INTERNATIONAL
CORPORATION,

Defendant.

Civil No.

COMPLAINT FOR COST
RECOVERY AND INJUNCTIVE
RELIEF

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1 The United States of America, by and through the undersigned attorneys, by
2 the authority of the Attorney General of the United States and at the request of and
3 on behalf of the United States Environmental Protection Agency (“EPA”), and the
4 California Department of Toxic Substances Control (“DTSC”) allege the
5 following:

6 STATEMENT OF THE CASE

7 1. This is a civil action brought pursuant to Sections 106 and 107 of the
8 Comprehensive Environmental Response, Compensation, and Liability Act, as
9 amended (“CERCLA”), 42 U.S.C. §§ 9606, 9607, against Leach International
10 Corporation (“Leach” or “Defendant”). Pursuant to CERCLA Sections 106 and
11 107, 42 U.S.C. §§ 9606, 9607, the United States and DTSC seek: (1) recovery of
12 unreimbursed costs incurred and to be incurred by them, together with interest, for
13 activities undertaken in response to the release or threatened release of hazardous
14 substances at the Baldwin Park Operable Unit of the San Gabriel Valley Superfund
15 Sites, Areas 1-4, in Los Angeles County, California (the “BPOU Area” or “Site”);
16 and (2) performance of studies and response work by Defendant at the BPOU Area
17 consistent with the National Contingency Plan, 40 C.F.R. Part 300 (as amended).
18 In addition, the complaint seeks injunctive relief pursuant to Section 7003 of the
19 Solid Waste Disposal Act, as amended by the Resource Conservation and
20 Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984
21 (collectively, “RCRA”), 42 U.S.C. § 6973.

22 JURISDICTION AND VENUE

23 2. This Court has jurisdiction over the subject matter of this action
24 pursuant to 42 U.S.C. §§ 6973(a), 9606, 9607, and 9613(b), and 28 U.S.C. §§ 1331
25 and 1345.

26 3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28
27 U.S.C. § 1391(b) and (c) because the claims arose, and the threatened or actual
28 releases of hazardous substances occurred, in this district, and because Defendant

1 resides in this district.

2 DEFENDANT

3 4. Leach is a Delaware corporation and a “person,” as defined by Section
4 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 1004(15) of RCRA, 42
5 U.S.C. § 6903(15).

6 5. Leach is a person who, at the time of disposal of a hazardous
7 substance, operated a facility from which there was a release, or a threatened
8 release, of a hazardous substance that caused the incurrence of response costs.

9 GENERAL ALLEGATIONS

10 6. The BPOU Area is located in the San Gabriel Valley in and near the
11 cities of Azusa, Irwindale, Baldwin Park, and West Covina in Los Angeles County,
12 California. The BPOU Area comprises a several mile long area of groundwater
13 contamination in the San Gabriel Valley. The BPOU Area is a “facility” within the
14 meaning and scope of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

15 7. In October 1984, EPA placed the BPOU Area on the National
16 Priorities List based on water quality information available at the time of listing.
17 40 C.F.R. Part 300, Appendix B. The BPOU Area is known as the San Gabriel
18 Valley Area 2 Superfund Site.

19 8. Subsequent investigation by EPA and others revealed the tremendous
20 extent of groundwater contamination in the San Gabriel Valley. During the past 25
21 years, more than one-quarter of the approximately 190 municipal water supply
22 wells in the San Gabriel Valley have been found to be contaminated, requiring
23 water companies to shut down wells, install new treatment facilities, and take other
24 steps to ensure that they can supply water meeting federal and State drinking water
25 standards.

26 9. From approximately October 1984 to April 1993, EPA undertook a
27 Remedial Investigation and Feasibility Study (“RI/FS”) for the BPOU Area,
28 pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300. In a

1 report dated April 2, 1993, EPA presented the results of the BPOU Area RI/FS.

2 10. EPA's decision on the interim remedial action for the BPOU Area is
3 embodied in an interim Record of Decision ("ROD"), executed on March 31, 1994.
4 The ROD is supplemented by an Explanation of Significant Differences issued in
5 May 1999. The selected interim remedy provides for the construction and
6 operation of groundwater extraction wells, treatment facilities, and conveyance
7 facilities capable of pumping and treating approximately 22,000 gallons per minute
8 of contaminated groundwater from the BPOU Area. This remedy is intended to
9 limit the movement of contaminated groundwater into clean or less contaminated
10 areas and depths, remove a significant mass of contamination from the
11 groundwater, and provide the data necessary to determine, in a subsequent final
12 Record of Decision, "in situ" cleanup standards for the BPOU Area.

13 11. Leach operated a facility at 717 North Coney Avenue in Azusa,
14 California (the "Coney Avenue property"), from approximately 1960 to
15 approximately 1973. Leach manufactured electronic devices at the Coney Avenue
16 property, and used degreasers and degreasing solvents, including trichloroethene
17 ("TCE"). Solvents including TCE were disposed of at the Coney Avenue property.

18 12. In subsurface investigations at the Coney Avenue property,
19 perchloroethylene, carbon tetrachloride, TCE, 1,1,1-trichloroethane, cis-1,2-
20 dichloroethene, and other chemicals have been detected in soil and/or soil vapor.
21 These investigations confirmed the presence of hazardous substances, as defined
22 by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and solid wastes, as
23 defined by Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), at the Coney
24 Avenue property.

25 13. The Coney Avenue property is a "facility" within the meaning and
26 scope of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

27 14. There was a "release" or a threat of a "release," as defined by Section
28 101(22) of CERCLA, 42 U.S.C. § 9601(22), of hazardous substances into the

environment at and from the Coney Avenue property.

15. Hazardous substances, within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and solid wastes, within the meaning of Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), have been disposed of at the Coney Avenue property.

16. Hazardous substances and solid wastes released from Defendant's facility have moved downward from the surface and through soil, contaminating groundwater beneath the Coney Avenue property. The contamination has generally migrated southward and westward from the Coney Avenue property, leaving large plumes of contaminated groundwater in the BPOU Area.

17. The release or threat of release of one or more hazardous substances from the Coney Avenue property and the BPOU Area may present an imminent and substantial endangerment to the public health or welfare or the environment under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a). The substances listed in Paragraph 12 are solid wastes that may present an imminent and substantial endangerment to health or the environment under Section 7003 of RCRA, 42 U.S.C. § 6973.

18. On or about December 30, 2002, EPA notified Leach that it considered the company, as a former operator at the Coney Avenue property, to be a potentially responsible party for the BPOU Area.

FIRST CLAIM FOR RELIEF
Injunctive Relief under CERCLA Section 106

19. The allegations contained in Paragraphs 1 - 18 are realleged and incorporated by reference herein.

20. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure

1 such relief as may be necessary to abate such danger or threat, and the
2 district court of the United States in the district in which the threat occurs
3 shall have jurisdiction to grant such relief as the public interest and the
4 equities of the case may require.

5 21. Defendant is liable as a person who, at the time of disposal of
6 hazardous substances, operated a facility at which such hazardous substances were
7 disposed of, within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C.
8 § 9607(a)(2).

9 22. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a),
10 Defendant is jointly and severally liable to Plaintiffs for injunctive relief to abate
11 and remedy the imminent and substantial endangerment to public health or welfare
12 or the environment presented by the BPOU Area.

13 **SECOND CLAIM FOR RELIEF**
14 **Response Costs under CERCLA Section 107**

15 23. The allegations contained in Paragraphs 1 - 18 and 21 are realleged
16 and incorporated by reference herein.

17 24. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides that the
18 owner and operator of a vessel or a facility from which there is a release, or a
19 threatened release, of a hazardous substance that causes the incurrence of response
20 costs shall be liable for all costs of removal or remedial action incurred by the
21 United States Government or a State not inconsistent with the National
22 Contingency Plan.

23 25. Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), provides in
24 pertinent part that, in any action for recovery of costs: “the court shall enter a
25 declaratory judgment on liability for response costs or damages that will be
26 binding on any subsequent action or actions to recover further response costs or
27 damages.”

28 26. The actions taken by the United States and DTSC in connection with
the Site constitute “response” actions within the meaning of Section 101(25) of

1 CERCLA, 42 U.S.C. § 9601(25), in connection with which the United States and
2 DTSC have incurred costs.

3 27. The costs incurred by the United States and DTSC in connection with
4 the Site are not inconsistent with the National Contingency Plan, which was
5 promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified
6 at 40 C.F.R. Part 300.

7 28. As of June 30, 2004, the United States had incurred response costs in
8 connection with the Site of approximately \$32.1 million. The United States has
9 received reimbursement to date in the sum of approximately \$11.4 million. The
10 United States continues to incur response costs in connection with the Site.

11 29. As of March 31, 2004, DTSC had incurred response costs in
12 connection with the Site in excess of \$3,960,000, and has received reimbursement
13 of approximately \$224,000. DTSC continues to incur response costs in connection
14 with the Site.

15 30. Defendant is jointly and severally liable to the United States and
16 DTSC for all response costs incurred and to be incurred by the United States and
17 DTSC in connection with the Site, including enforcement costs and prejudgment
18 interest on such costs, pursuant to Section 107(a) of CERCLA, 42 U.S.C.
19 § 9607(a).

20 **THIRD CLAIM FOR RELIEF**
21 **Injunctive Relief under RCRA Section 7003**

22 31. The allegations contained in Paragraphs 1 - 18 are realleged and
23 incorporated by reference herein.

24 32. Section 7003(a) of RCRA, 42 U.S.C. § 6973(a), provides in pertinent
25 part:

26 [U]pon receipt of evidence that the past or present handling, storage,
27 treatment, transportation or disposal of any solid waste or hazardous waste
28 may present an imminent and substantial endangerment to health or the
environment, the Administrator may bring suit . . . against any person
(including any past or present generator, past or present transporter, or past
or present owner or operator of a treatment, storage, or disposal facility) who

1 has contributed or who is contributing to such handling, storage, treatment,
2 transportation or disposal . . . to order such person to take such . . . action as
may be necessary

3 33. Defendant is a person who has contributed or is contributing to the
4 past or present handling, storage, treatment, transportation and/or disposal of solid
5 waste at the BPOU Area.

6 34. EPA has evidence that the past or present handling, storage, treatment,
7 transportation and/or disposal of solid waste at the BPOU Area may present an
8 imminent and substantial endangerment to health or the environment.

9 35. Notice of this suit has been provided to the State of California in
10 accordance with Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

11 36. Pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a),
12 Defendant is jointly and severally liable to Plaintiffs for injunctive relief to abate
13 and remedy the imminent and substantial endangerment to health or the
14 environment presented by the BPOU Area.

15
16 PRAYER FOR RELIEF

17 WHEREFORE, Plaintiffs, the United States and DTSC, pray that this Court:

18 1. Order the Defendant to take all measures necessary to abate and
19 remedy the imminent and substantial endangerment to public health or welfare or
20 the environment presented by the BPOU Area;

21 2. Enter judgment in favor of the United States and DTSC and against
22 the Defendant for all costs, including prejudgment interest, incurred by the United
23 States and DTSC for response actions in connection with the Site and not
24 otherwise reimbursed;

25 3. Enter a declaratory judgment on liability for response costs or
26 damages that will be binding on any subsequent action or actions to recover further
27 response costs or damages;

28 4. Award the United States and DTSC their costs of this action; and

1 5. Grant such other and further relief as this Court deems to be just and
2 proper.

3 Respectfully submitted,
4 FOR THE UNITED STATES OF AMERICA

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6
7 Date: _____

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13 Date: _____

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1 FOR THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES
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